

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

James Charles Thompson, III,

Case No. 23-cv-1598 (JRT/DJF)

Plaintiff,

v.

**REPORT AND
RECOMMENDATION**

Paul Schnell et al.,

Defendants.

On June 5, 2023, the Court ordered Plaintiff James Charles Thompson, III, a federal prisoner, to pay this action's filing fee of \$350 by July 5, 2023. The Court advised Mr. Thompson that if he failed to comply with its Order, the Court would recommend that this action be dismissed without prejudice for failure to prosecute. (*Id.*)

On June 27, 2023, Mr. Thompson filed a response acknowledging the Court's Order (ECF No. 4) but did not pay the filing fee. More than one week has passed since the deadline for Mr. Thompson to pay this action's filing fee. Accordingly, the Court deems that Mr. Thompson has abandoned this action and recommends that it be dismissed without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order."). The Court therefore also recommends that Mr. Thompson's Application to Proceed in District Court without Prepaying Fees or Costs (ECF No. [2]) be denied as moot.

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein,

IT IS HEREBY RECOMMENDED THAT:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute; and

2. Plaintiff James Charles Thompson, III's Application to Proceed in District Court without Prepaying Fees or Costs (ECF No. [2]) be **DENIED AS MOOT**.

Dated: July 14, 2023

s/ Dulce J. Foster

DULCE J. FOSTER

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).